

EXHIBIT J

St. Joe's 'Dead' Patient Awoke as Docs Prepared to Remove Organs

By John O'Brien | jobrien@syracuse.com

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http://www.syracuse.com/news/index.ssf/2013/07/st_joes_fined_over_dead_patien.html

Syracuse, NY - Doctors at St. Joseph's Hospital Health Center were about to remove organs for transplant from a woman they thought was dead.

Then she opened her eyes. She was alive.

The state Health Department found St. Joe's care of patient Colleen S. Burns in 2009 unacceptable and a federal agency criticized the hospital for not properly investigating the cause. **The hospital's mishandling of the case was part of the reason the state Health Department fined St. Joe's \$22,000 last September -- the largest fine levied against a Central New York hospital since 2002.**

St. Joe's was fined \$6,000 over the Burns case and \$16,000 for leaving a patient unattended before she fell and injured her head in 2011.

The state could not find a case similar to the Burns case after reviewing the past 10 years of inspection records, a spokesman said.

A series of mistakes that began shortly after Burns arrived in the emergency room suffering from a drug overdose led to the near catastrophe, the investigations showed. A review by the state Health Department found:

- *Staff skipped a recommended treatment to prevent the drugs the patient took from being absorbed by her stomach and intestines.

- *Not enough testing was done to see if she was free of all drugs.

- *Not enough brain scans were performed.

- *Doctors ignored a nurse's observations indicating Burns was not dead and her condition was improving.

The hospital made no effort to thoroughly investigate what went wrong until it was prodded by the state. The investigation did find, however that St. Joe's had acceptable organ procurement policies and procedures.

Burns, 41, of North Syracuse, recovered from her overdose of Xanax, Benadryl and a muscle relaxant and was discharged from the hospital two weeks after the near-miss in the operating room. But 16 months later, in January 2011, she committed suicide, said her mother, Lucille Kuss.

Having her daughter mistaken as dead and nearly cut open at the hospital was a horrible experience for the family, Kuss said. The doctors never explained what went wrong, she said.

"They were just kind of shocked themselves," she said. "It came as a surprise to them as well."

Burns, who had three daughters, was never upset about the incident, her mother said.

"She was so depressed that it really didn't make any difference to her," Kuss said.

Neither Burns nor any of her relatives sued St. Joe's.

St. Joe's officials would not discuss the specifics of the case. Burns' family asked them not to, hospital spokeswoman Kerri Howell said.

"St. Joseph's goal is to provide the highest quality of care to every patient, every time," Howell said in an email to The Post-Standard. The hospital works with Finger Lakes Donor Recovery Network to follow strict policies and procedures for organ donation, she said.

"These policies were followed in this case, which was complicated in terms of care and diagnosis," Howell said. "We've learned from this experience and have modified our policies to include the type of unusual circumstance presented in this case."

St. Joe's officials thought Burns suffered "cardiac death" in October 2009, according to documents obtained by The Post-Standard under the state Freedom of Information Law.

Her family had agreed to allow doctors to withdraw life support and remove her organs after they were told she was dead.

The day before her organs were to be removed, a nurse had performed a reflex test on Burns, scraping a finger on the bottom of her foot. The toes curled downward - not the expected reaction of someone who's supposed to be dead.

There were other indications that Burns had not suffered irreversible brain damage, as doctors had determined. Her nostrils flared in the prep area outside the OR. She seemed to be breathing independently from the respirator she was attached to. Her lips and tongue moved.

Twenty minutes after those observations were made, a nurse gave Burns an injection of the sedative Ativan, according to records.

In the doctors' notes, there's no mention of the sedative or any indication they were aware of her improving condition.

None of those signs stopped the organ-harvesting process. It wasn't until Burns was wheeled into the OR on Oct. 20, 2009, opened her eyes and looked at the lights above her that doctors called it off.

Burns had been in a deep coma from taking an overdose of drugs. Hospital personnel misread that as irreversible brain damage without doing enough to evaluate her condition, the state Health Department found.

The federal Centers for Medicare and Medicaid Services criticized St. Joe's response to the incident.

"Despite this sequence of events, intensive objective peer review and root cause analysis of the case was not done by the hospital's quality assurance program until prompted by the Department of Health," the federal agency's report said.

The state started investigating the case in March 2010 in response to an inquiry from The Post-Standard.

It wasn't until the day after the state made a surprise inspection that St. Joe's did any investigation, the state report said. And even then, it was cursory - a one-page document that cited "perception differences" without analyzing the cause of the mistake, the investigative findings said.

"The hospital did not undertake an intensive and critical review of the near catastrophic event in this case," the federal agency's report said. St. Joe's officials did not "identify the inadequate physician evaluations of (Burns) that occurred when nursing staff questioned possible signs of improving neurological function."

Burns did not suffer a cardiopulmonary arrest and did not have irreversible brain damage, as St. Joe's had determined, the state's report said.

"The patient did not meet criteria for withdrawal of care," the report said.

Hospital officials didn't wait long enough or conduct enough tests to determine that all of the drugs were out of Burns' system before deciding whether to take her off life support, the state said.

Lisa McGiffert, director of Consumers Union Safe Patient Project, said there is no way of knowing how often near-catastrophes like the Burns case happen because there is no system in place to collect information from hospitals about medical errors.

"These sorts of things do happen," McGiffert said. "It's pretty disturbing." Her organization believes states should require hospitals to report all such incidents soon after they happen.

"That would require people to think about how to prevent it in the future," she said. "If you don't have to account for it, that doesn't always happen."

Two medical experts who reviewed the case for The Post-Standard found it shocking, and questioned why the hospital didn't do more to ensure other patients aren't put in the same position.

"Dead people don't curl their toes," said Dr. Charles Wetli, a nationally known forensic pathologist out of New Jersey. "And they don't fight against the respirator and want to breathe on their own."

Once those signs of life appeared, the organ-harvesting process should've stopped, Wetli said.

Wetli wondered why, after seeing signs that Burns was alive, a nurse would give Burns a sedative.

Dr. David Mayer, general and vascular surgeon and an associate professor of clinical surgery at New York Medical College, also reviewed the records and found the use of a sedative perplexing.

"It would sedate her to the point that she would be non-reactive," Mayer said. "If you have to sedate them or give them pain medication, they're not brain dead and you shouldn't be harvesting their organs."

The hospital erred four or five times, Mayer said. He called the case a gross deviation from all prevailing and accepted standards of care.

St. Joe's submitted a plan to correct problems identified in the investigation to the state Health Department in August of 2011.

At that time the state fined St. Joe's \$22,000 and ordered it to hire a consultant to review the hospital's quality assurance program and implement the consultant's recommendations.

The hospital also was ordered to hire a consulting neurologist to teach staff how to accurately diagnose brain death.

Contact John O'Brien at jobrien@syracuse.com or 315-470-2187. Contact Jim Mulder at jmulder@syracuse.com or 315-470-2245.

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Jacob K. Javits Federal Building, Room 37-130
26 Federal Plaza
New York, New York 10278-0063



NORTHEAST DIVISION OF SURVEY & CERTIFICATION

March 27, 2014

CMS Certification Number: 33-0140

Ms. Kathryn Ruscitto, MPA
Chief Executive Officer
St. Joseph's Hospital Health Center
301 Prospect Avenue
Syracuse, NY 13203

Dear Ms. Ruscitto:

The Centers for Medicare & Medicaid Services (CMS) has received the reports of the substantial allegation surveys completed by the New York State Department of Health on September 9, 2013 and February 25, 2014. Based on our review of the survey findings, we have determined that St. Joseph's Hospital Health Center is not in compliance with the following Medicare Conditions of Participation for hospitals:

42 CFR 482.12 Governing Body
42 CFR 482.13 Patient Rights
42 CFR 482.42 Infection Control

We have determined that the deficiencies cited are significant and limit your hospital's capacity to render adequate care and to ensure the health and safety of your patients. Enclosed is a listing of the deficiencies cited.

In accordance with Section 1865 of the Social Security Act and implementing regulations at 42 CFR 488.5, a hospital accredited by Det Norske Veritas HealthCare, Inc. is deemed to meet Medicare Conditions of Participation with the exception of Utilization Review. Section 1864(c) of the Act requires the Secretary of Health and Human Services to survey an accredited hospital participating in Medicare if there are allegations which suggest the existence of significant deficiencies which would adversely affect the health and safety of patients.

If, in the course of such a survey, the hospital is found not to meet one or more Conditions of Participation and significant deficiencies exist, Section 1865(b) of the Act provides that a hospital is no longer deemed to meet the Medicare Conditions of Participation. With notification to the accrediting body, the hospital is then placed under the survey jurisdiction of the State survey agency until the hospital is found in compliance with all Medicare Conditions of Participation.

St. Joseph's Hospital Health Center

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Therefore, based on the determination that your hospital does not comply with the above Condition and that a significant deficiency exists, your hospital is no longer deemed to meet the Medicare Conditions of Participation and is now under the survey jurisdiction of the New York State Department of Health.

We have authorized the New York State Department of Health to conduct a survey of your facility to assess compliance with **all** of the Medicare Conditions of Participation. After the survey is conducted, **you will be notified** if any additional Conditions are not met. Your hospital is subject to termination from the Medicare program for noncompliance with the Medicare Conditions of Participation.

A plan of correction is not required at this time for the deficiencies cited at the substantial allegation surveys of September 9, 2013 and February 25, 2014, although it may be to your benefit to submit one. Further, it is to your advantage to initiate corrective action on the identified deficient practices in order to bring your hospital in compliance with the regulations. Once the full survey of all the Medicare Conditions of Participation has been conducted, you will be notified by the New York State Department of Health of any deficiencies cited at that survey. At that time, an acceptable plan of correction will be required for all deficiencies cited at that survey in order to return your hospital to substantial compliance with the Medicare Conditions of Participation.

If you wish to submit a plan of correction at this time for the deficiencies cited in the surveys of September 9, 2013 and February 25, 2014, you must submit your plan of correction within ten (10) calendar days of your receipt of this letter both to the New York office of CMS and to the State survey agency at the following address:

Lynn Dey
NYS Department of Health
Hospital and Primary Care Program
Rochester Area Office
335 East Main Street
Rochester, NY 14604

Please note that plans of correction must be specific, stating exactly how the deficiency was or will be corrected and with reasonable expected completion dates. A response to each deficiency on the CMS-2567 is required, and the right side of the CMS-2567 must be used to document your plan for corrective action. The plan of correction must be signed and dated on the bottom of the first page of the CMS-2567 by the authorized official at your hospital. Additional documentation may be attached to the CMS-2567, when necessary.

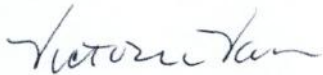
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Under Federal regulation 42 CFR 498.3(d)(9), removal of deemed status is an administrative action, not an initial determination by the Secretary and, therefore, formal reconsideration and hearing procedures do not apply.

We have advised Det Norske Veritas HealthCare, Inc. of our determination. If you have any questions regarding this matter, please contact Elizabeth Romani at either (212) 616-2479 or Elizabeth.Romani@cms.hhs.gov.

Sincerely,



CDR Victoria Vachon, NE-BC, RAC-CT, MBA/MSN
Survey Branch Manager
Division of Survey, Certification and Enforcement

Enclosures: Form CMS-2567, Statement of Deficiencies

\$140 Million Expansion Underway at St. Joseph's Hospital

By Megan Coleman

Friday, April 20th 2012

<http://www.cnycentral.com/news/local/140-million-expansion-underway-at-st-josephs-hospital>



St. Joseph's Hospital second phase expansion groundbreaking

Fri, 20 Apr 2012 16:58:31 GMT — The second phase of construction is underway at St. Joseph's Hospital Health Center.

St. Joe's hosted a groundbreaking ceremony this morning to mark the start of the \$140 million expansion project, which is a nearly 50 percent larger investment than the first phase.

The expansion includes construction of operating rooms, a PeriAnesthesia Care Unit (PACU), Intensive Care Units, medical-surgical private patient rooms, family waiting areas and a central sterile unit. The expansion also features a greenway connection to North side businesses, green space and campus lighting added to the North end of St. Joseph's Prospect Hill campus.

The project will generate 400 long-term construction jobs and 150 new, permanent health care jobs.

The new surgical suite will include 14 operating rooms. Each one twice as big to accommodate today's state-of-the-art medical technology and larger surgical teams. The PeriAnesthesia Care Unit (PACU) will be expanded from 16 to 25 patient beds and will increase annual capacity from 10,500 to 14,000 patients. The PACU is designed to enhance care for patients just before and right after surgery.

The new Central Sterile Unit will be nearly four times larger than the current, 40-year-old unit. "Green" instrument washers will save water and electricity.

The expanded Medical and Surgical Intensive Care Units will include 38 private rooms. Each will be larger than the existing semi-private rooms.

The expansion also includes 72 new private patient rooms, replacing 36 semi-private rooms currently in use at the hospital. The rooms are 35 percent larger, allowing more space for families and visitors. "Private patient rooms are the wave of the future in health care," said Mary Clare Ehde, manager of patient relations. "Not only does the law require us to maintain patient privacy, but a quiet, private environment is shown to help facilitate faster, healthier recoveries. Private rooms also help to reduce spread of infection."

According to St. Joe's, Phase 2A and B together are one of the largest green health care construction projects in New York State. The project may include solar panels, daylighting views, energy conserving systems, a greenway park, site drainage, and underground water and storm water infrastructure, all of which will reduce the hospital's energy costs.

Syracuse Hospital Loses \$21.6 Million, Wants to Join Big Health System

By James T. Mulder | jmulder@syracuse.com

on February 17, 2015 at 8:59 AM, updated February 17, 2015 at 9:36 AM

http://www.syracuse.com/health/index.ssf/2015/02/st_joes_which_lost_216_million_last_year_looking_to_join_big_health_system.html



St. Joseph's new patient tower (Ellen M. Blalock | eblalock@syracuse.com)

Syracuse, N.Y. - St. Joseph's Hospital Health Center, which lost \$21.6 million in 2014, wants to join a large nonprofit health care system.

St. Joe's has signed a non-binding preliminary agreement to join an unnamed health organization. If the deal goes through, it will help St. Joe's sustain its mission, the hospital disclosed in its unaudited 2014 financial results posted on the Electronic Municipal Market Access [website](#).

The hospital announced plans in 2013 to join Trinity Health, a national Catholic system that operates hospitals and other facilities in 21 states. St. Joe's and Trinity dropped that plan three months later for undisclosed reasons. But last year St. Joe's entered into an affiliation with Trinity. Under that agreement, Trinity provides St. Joe's operational and strategic advice. St. Joe's also has joined Trinity's purchasing system.

St. Joe's refused to identify who it is negotiating with and said the proposed deal would not be a merger. Trinity, through its spokeswoman Eve Pidgeon, would not say if it has a deal in the works with St. Joe's.

St. Joe's has created an entity, St. Joseph's Health, to serve as the parent company of the hospital, St. Joseph's Health Center Properties Inc. and the hospital's foundation. The change was made, in part, to "facilitate a potential transaction with a national health system if such a transaction were to occur," the hospital said in its financial report.

St. Joe's blamed most of its \$21.6 million operating loss on more than \$19 million in one-time costs associated with a new electronic medical record system installed last year and construction-related depreciation and interest expenses.

"2014 was a very unusual year for St. Joseph's," the hospital said in an email. "A significant portion of these non-recurring expenses are anticipated to generate a positive return in future years."

St. Joe's recently completed an overhaul of its campus that includes a \$63 million tower with private patient rooms, operating rooms and an intensive care unit.

St. Joe's posted a \$14.2 million gain in 2013. In its budget, St. Joe's had projected it would finish 2014 with a gain of \$5.9 million.

Here are some other highlights from the financial report:

- The hospital trimmed 54 full-time jobs from its payroll last year through "attrition and efficiencies." The hospital had 3,594 full-time employees at the end of 2014. It said it is not planning job cuts or layoffs.
- St. Joe's is considering closing or limiting outpatient mental health services unless it gets additional money from the state to support these operations. It runs 12 outpatient mental health programs. In an email, the hospital said discussions with the state are going well and it expects to be able to continue these services.
- The hospital sold 9 percent of its share in SJLS LLC, a joint venture that operates five dialysis outpatient clinics, for \$4.3 million on Dec. 1. to Fresenius, a national dialysis company that is St. Joe's partner in the operation. The sale reduced the hospital's ownership stake in the joint venture from 60 percent to 51 percent.
- St. Joe's operating margin tumbled from 2.37 percent in 2013 to -3.67 percent last year. A hospital's operating margin -- operating profit or loss divided by total operating revenue -- is a key indicator of its profitability and health. The median operating margin for U.S. nonprofit hospitals was 2.2 percent in 2013, according to Moody's Investors Service.
- The hospital saw a slight decline in inpatients last year. Inpatient volume dropped from 27,956 in 2013 to 27,635 in 2014. The number of outpatient surgeries dropped from 10,380 in 2013 to 9,791 in 2014, a nearly 6 percent decline.

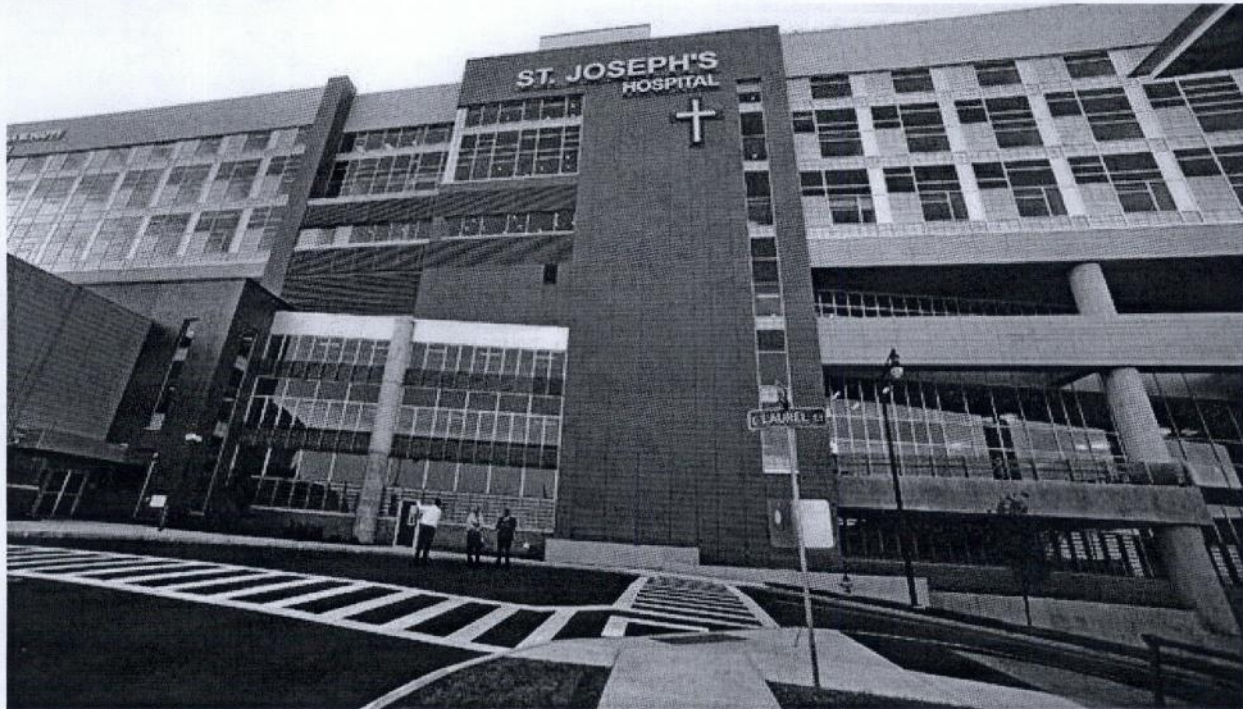
Contact James T. Mulder anytime: [Email](#) | [Twitter](#) | 315-470-2245

Syracuse Hospital Joining Trinity Health, One of the Biggest U.S. Health Systems

By James T. Mulder | jmulder@syracuse.com

on April 28, 2015 at 11:31 AM, updated April 28, 2015 at 12:09 PM

http://www.syracuse.com/health/index.ssf/2015/04/st_joes_joining_trinity_health_one_of_the_biggest_u_s_health_care_systems.html



The new patient tower at St. Joseph's Hospital Health Center. (Ellen M. Blalock | ebalock@syracuse.com)

Syracuse, N.Y. -- St. Joseph's Hospital Health Center is joining Trinity Health, one of the largest health care systems in the United States.

The two organizations announced the agreement today.

St. Joe's announced plans in 2013 to join Trinity Health, a national Catholic system that operates hospitals and other facilities in 21 states. But St. Joe's and Trinity dropped that plan three months later for undisclosed reasons. Last year St. Joe's entered into an affiliation with Trinity. Under that agreement, Trinity provides St. Joe's operational and strategic advice. St. Joe's also joined Trinity's purchasing system.

The decision to join together will build on the affiliation, the organizations said.

"This will enhance St. Joseph's ability to compete in an increasingly dynamic health care environment," Kathryn Ruscitto, St. Joe's president and CEO, said in a prepared statement.

She said joining Trinity will benefit St. Joe's patients and employees by providing the clinical, operational, strategic and financial resources to continue providing a high level of care.

St. Joe's lost \$21.6 million in 2014. Most of that was caused by one-time costs associated with a new electronic medical record system installed last year and construction-related depreciation and interest expenses.

Trinity, based in Livonia, Mich., has annual operating revenue of about \$13.6 billion and employs about 89,000 people. Trinity already operates in New York through the Catholic Health System in Buffalo and St. Peter's Health Partners in Albany.

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